

REMARKS

Claims 1–20 are pending in the present application.

Claims 6 and 12–14 are objected to as being dependent upon a base claim, but were indicated to be allowable if rewritten in independent form including all limitations of the base claim and any intervening claims.

Claim 1 was amended herein.

Claims 15–20 were added.

Reconsideration of the claims is respectfully requested.

35 U.S.C. § 103 (Obviousness)

Claims 1–5 and 7–11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,600,914 to *Uhlik et al* in view of U.S. Patent Application Pub. No. 2002/0171581 to *Sheynblat et al*. This rejection is respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142, p. 2100-128 (8th ed. rev. 2 May 2004). Absent such a *prima facie* case, the applicant is under no obligation to produce evidence of nonobviousness. *Id*.

To establish a *prima facie* case of obviousness, three basic criteria must be met: First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference

teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *Id.*

Independent claim 1 recites that emulation of normal call set-up operations at the selected subscriber station is in response to detection that communication resources are unavailable to establish the call. Such a feature is not found in the cited reference. *Uhlik et al* teaches that the emergency call recognition system is initiated as soon as an off-hook state is determined, not after querying availability of communication resources to make the call and determination that such communication resources are unavailable. Similarly such a feature is not found in *Sheynblat et al.*

Therefore, the rejection of claims 1–5 and 7–11 under 35 U.S.C. § 103 has been overcome.

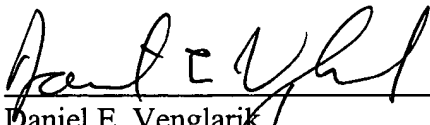
If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *dvenglarik@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: 9-22-04


Daniel E. Venglarik
Registration No. 39,409

P.O. Drawer 800889
Dallas, Texas 75380
(972) 628-3621 (direct dial)
(972) 628-3600 (main number)
(972) 628-3616 (fax)
E-mail: *dvenglarik@davismunck.com*